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Second Amended COMPLAINT

(for non-prisoner filers without lawyers)

U.S. DISTRICT COURT
EASTERN DISTRICT - WI
FILED

2019 AUG 29 P 3:44

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
STEPHEN C. DRIES
CLERK

(Full name of plaintiff(s))

Timothy Ryan Gove

v.

Case Number:

(Full name of defendant(s))

Sargento Foods Inc.

18-cv-1335

(to be supplied by Clerk of Court)

A. PARTIES

1. Plaintiff is a citizen of WISCONSIN and resides at
(State)

522 Susan Street Combined Locks, WI 54113
(Address)

(If more than one plaintiff is filing, use another piece of paper.)

2. Defendant Sargento Foods Inc.
(Name)

is (if a person or private corporation) a citizen of WISCONSIN
(State, if known)

and (if a person) resides at _____
(Address, if known)

and (if the defendant harmed you while doing the defendant's job)

worked for Sargento Foods Inc ONE PERSNICKETY PLACE PLYMOUTH, WI 53073
(Employer's name and address, if known)

(If you need to list more defendants, use another piece of paper.)

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

See attached paperwork

C. JURISDICTION

☒ I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR

☐ I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$_____.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

See attached paperwork.

E. JURY DEMAND

I want a jury to hear my case.

☒ - YES

☐ - NO

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 29th day of August 2019.

Respectfully Submitted,

Timothy R Chow

Signature of Plaintiff

920-904-2893

Plaintiff's Telephone Number

Timbowe@Hotmail.com

Plaintiff's Email Address

522 Susan Street

Combined Locks, WI 54113

(Mailing Address of Plaintiff)

(If more than one plaintiff, use another piece of paper.)

REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FILING FEE

To Judge already ruled I don't have to prepay the filing fee.



I DO request that I be allowed to file this complaint without paying the filing fee. I have completed a Request to Proceed in District Court without Prepaying the Filing Fee form and have attached it to the complaint.



I DO NOT request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.

I the plaintiff, Timothy Gove worked for Sargento Foods Inc. from 2012 to 2018 at the Hilbert, Wisconsin plant. I was a laborer in the North Building. I was fired by Sargento Foods Inc. April 30th, 2018 due to retaliation for demanding disciplinary action against the ongoing discriminating, harassing, threaten and assaulting actions by a socially-knit group of co-workers. This main active participants in this group is as follows: Katherine Clauson, Bruce Behnke, Melissa Bratz, Victoria Zahn, Amy Fucile, Jeff Van Asten, William Roit.

As a result, I have suffered lost wages, financial hardships, humiliation, embarrassment, and emotion stress. I am suing for the violation of my civil rights of Sexual, Gender, Religion, Civil Conspiracy; not limited to, but including Harassment, Threats of Violence, Physical abuse, wrongful firing, and employer liability in a hostile work environment.

My main reason for the lawsuit is so justice is served. This isn't the only time Sargento has allowed this type of behavior to flourish at its facilities. Hopefully it will change the culture of how Sargento management deals with horrific actions of its workers in the future. I am not seeking monies from former peers because as a Christian, once again I will forgive them. I am seeking monies from Sargento Foods Inc. for the ill-usage behaviors and actions of their corporate management team and for allowing these acts to run rampant when they could have been contained or completely avoided. The only way to prevent these unlawful acts from happening again in the future is to seek justice thru this lawsuit. I seek \$750,000 for punitive damages.

Civil rights violations are divided into two separate categories; management and co-workers. The abuse of these civil rights led to an increase in different types of discriminatory acts of misconduct, inappropriate behavior and harassments.

History

Katherine Clauson came on to me sexually several times, but specifically on 02-02-2017, in front of a crowd of women, telling me 'how hot she was'. I walked away from her advancements. This rejection led to retaliatory acts by her. Below are the religious, sexual, stalking and harassing acts of discrimination by Katherine Clauson in 2017. Katherine Clauson; was a Manpower Inc. temporary worker and later hired as full time worker and was also on a 90 day probationary period when she did some of these acts. Her discriminatory / harassing behaviors were ignored by Sargento management without corrective measures or, discipline.

Sargento discriminated against me due to the fact I was an older in age (57yrs vs. 22 yrs) and a male; it is clear management felt that it was acceptable for a woman to act sexually towards a male counterpart, especially since there was such an age gap. Both

parties; management and co-workers were aware that do to my faith, I did not have sex outside of marriage. This gender/sexual discrimination by Sargento Foods Inc. directly contributed and led up to them firing me a year later.

02-21-2017. Katherine Clauson filed a complaint with Human Resources Department about me. In the meeting on 02-24 2017; in a conversation with Maria Herrera, said it was an email issue and it seemed resolved. She never said what the original complaint was, or showed me the complaint document, which was standard protocol. Sexual/religious harassment/retaliation by Katherine Clauson with intentions of getting me fired, for not accepting her advancements. Sargento cover up of religion/sexual discrimination.

03-29-2017. Sargento offered her a full-time position with the company to be filled at a later date. Regardless of other harassment issues I made aware to them. Sargento cover up of sexual/religious discrimination and harassment. Sargento Gender/sexual/religious discrimination.

04-05-2017. Katherine Clauson/Amy Fucile. Threaten gestures to vandalize my motor vehicle. She did it out retaliation for my answer to HR representative Maria Herrera question me to why she was so angry that I didn't sleep with her. I answered 'maybe she was because she could seduce a older man?'. I reported this event to HR personnel Jeff Kiesner and Maria Herrera. Jeff Kiesner commented that 'she's not even hired and she doing this'. Katherine Clauson was still a Manpower Inc. Temporary worker. Co-worker harassment/threads/hostile action/retaliation. Sargento gender/sexual discrimination/hostile work environment. No corrective measures or disciplinary actions.

04-19-2017. Katherine Clauson/Victoria Zahn. Sexual gesture of fellatio at me as I was leaving the production area. Sexual harassment thru gesture. She did it out retaliation for my answer to defend myself to Victoria Zahn sarcastic accusation about me telling on Katherine Clauson. Reported this event to HR personnel Maria Herrera. Maria Herrera was well aware of it, investigated it, and had proof of this event happened. Katherine Clauson was a full time probationary employee. Co-worker sexual discrimination/harassment/retaliation. Sargento gender/sexual discrimination. No corrective measures or disciplinary actions.

04-24-2017. Katherine Clauson. Sexual gesture of imitating fellatio (whistling/blowing) as she was walking past me. Just a continuation of the previous stunt. Worked with Jorge Santos the next day (Tuesday) on line 320 pack, he inquired about what was going on, and was scheduled for a meeting with management at 8:30AM. More proof management was aware of Katherine Clauson's actions. She was in her 90 days probationary period, at this she should have been fired. Co-worker sexual discrimination/harassment. Sargento gender/sexual discrimination.

04-27-2017. Katherine Clauson was informed she'll be working at Kiel third shift starting the following week. Management knew what was going on and shipped her out to get her away from me!

07-29-2017. Katherine Clauson shows up active on my messenger email. Messenger email activation after roughly 4 months previous of being blocked by Katherine Clauson by the advice of HR management Maria Herrera. I suggested to Maria Herrera in our so-called email issue meeting; if it's an issue, why doesn't she just block me. Co-worker sexual harassment/stalking. This issue was reported to HR management Jeff Kiesner. I told him; even though I was previously blocked by her, I now blocked her, he commented to 'keep it that way'.

All of these events and more not listed were ignored without disciplinary actions by Sargento Human Resources Management. Due to their lack of the disciplinary measures; a series of discriminatory events quickly escalated to an unwelcomed intimidating, harassing behaviors by both Sargento co-workers and later by Sargento management. From the rest of 2017 up to my termination date of April 30, 2018; working at Sargento Foods Inc. became the most hostile environment I ever encountered! It was so severe; it's negatively affected my health, life and work.

Verbal Sexual Discrimination and Harassments

Tammy Wolf, making a Sexual Comment of 'I like a mushroom with a nine inch stem' as she walked by me as I was in the tray watching position on line 315. My back was too her when she made the comment. I turned around to look briefly shaking my head in disbelief. I believe it happened in the later summer months of 2017, but, it was definitely before the messenger activation stalking stunt by Katherine Clauson on 07-29-2017. Co-worker sexual harassment.

12-06-2017. Kathy Griffey. Sexual Comment of 'needing something to suck on'; when I told her that her upper lip was raw, as she stopped to talk to me. I was working in pack, Line 315 by the vestibule. I've asked her several times to quit say sexual innuendo to me. She told me that it was her new year's resolution. Co-worker sexual harassment.

HR personnel Maria Herrera didn't have anything to say, when I told her what some of the women were saying sexually and talking to me about. I was clear to Maria Herrera that sexual topics were unwanted by me, and the women were well aware of it. Sargento management put up a sexual discrimination policy on the encased bulletin board, sexually harassments still continued!

Verbal Treads and Assault

02-08-2018. Aaron Beitler/William Roit. Verbal threat by Aaron Beitler in 320 hand washing area between high care and low care. Aaron Beitler was unaware I was behind

him, he said 'every time I see him (me) I want to beat the fuck out of him'. He was reacting to the rumors he was hearing from Bill Roit and Katherine Clauson's friends. Co-worker assault/intimidation/verbal threat.

02-05-2018. Jeff Van Asten / Bruce Benke, comment of someone should put him six feet under. Verbal death threat by Jeff Van Asten as I walked by him in the lunch room. The previous week Jeff and Bruce were gloating like they always do when they think I'm in trouble. They knew something I didn't. Something changed. Co-worker intimidation/verbal assault/harassing behavior.

03-12-2018. Quality Control personnel Emily DenDecker, Process technicians Owen Carle, and Ricky Ferron throwing and hitting me with boxes filled with product as I palletizing on line 320. I switched palletizing lifts. Tony Wittman, fork lift driver laughed at me and asked me why I don't work at the other palletizing lift. This act was because of Emily DenDecker attitude and influence. Emily (not in a position which she had authority over me) was telling me what to do. I just kept walking, due to the fact I was so busy with the issues we had, and I had a lot of work to catch up on. She has been harassing/intimidating me for sometime due to the Katherine Clauson issues, her attitude was horrible towards me. Co-worker Acts of violence, assault, continuing sexual harassment, intimidation behavior.

These threats and assault were reported to both HR management Jeff Kiesner and Laura Biehm. In response to the Aaron Beitler statement; Laura asked 'if I considered it a threat, I asked her, would you consider it a threat? Her response was yes! So I said then the answer is Yes!' They both refused me an opportunity to file a complaint. Jeff Kiesner said 'no one should have to should have to be treated like that'.

Harassment

03-12-2018. Line 320 pack. Owen Carle and Ricky Ferron. Owen Carle making insinuating remarks loudly as I walked by to Ricky Ferron'; the reason she (Katherine Clauson) can't come to first shift is because of his (me) lies'. I just kept walking. This comment was later in the day, after they assaulted me. Co-worker harassment by spreading false rumors, with intent to hurt my reputation/civil conspiracy/harassment.

07-21-2017. Jeff Van Asten Line 315 pack palletizing / Bruce Benke line 320 pack palletizing. Lines they working on could be reversed, but they were both palletizing. Mocking and laughing at me as I walked by, insinuating that I was in trouble from the retaliatory stunt Jeff Van Asten and Cathy Beil pulled the day before (Cheese cutter stopping). Co-worker intimidating/harassing behavior/civil conspiracy/retaliatory due to Katherine Clauson issues.

These acts were reported HR management Jeff Kiesner and Laura Beihm in good faith.

Civil Conspiracy

Co-worker Conspiracy

07-20-2017. Line 320 high care. Cathy Bail / Jeff Van Asten acting like it was my fault the cheese cutting machine stopped. Cathy Bail tried to have me falsely suspended. Co-worker impairing company operations/ intimidating/harassing behavior, retaliation due to Katherine Clauson issues.

12-13-2017. Line 310 pack. Wendy Mueller, Amy Fucile, and Melissa Bratz setup a stunt to make it look like I wasn't working. Co-worker impairing company operations, harassing behavior.

Supervisor Eric Driessen was aware of both of these acts and questioned me regarding them. He inquired how I felt about meeting our quotas. Management didn't pursue any disciplinary actions against me due to the fact that Katherine Clauson sexual discriminatory acts were still in the 300 day time frame. Sargento gender discrimination/civil conspiracy.

Sargento Management Conspiracy

09-07-2017. I was on line 315 pack by the vestibule. Shaun Carter came up to me and said, her heard Katherine Clauson was coming back to north building first shift. Management supervisor spread the rumors thru the co-workers that Katherine Clauson was coming back to the north Hilbert building in a process tech meeting. Four months after her discrimination and harassments acts against me.

I inquired with HR personnel Jeff Kiesner after work about her coming back. Jeff told me 'I have nothing to worry about, my slate is clean'. In other words, there's nothing on file of these allegations. He gave me her itinerary of her schedule, when she would be coming back. I told him 'I don't care what her schedule is, she doesn't stop what she's doing!' Jeff Kiesner told me 'remember the "R" factor', which means rape. This comment was related to a previous Katherine Clauson's parking lot stunt I which spoke to HR about and along with other co-worker harassments in a meeting with Human Resources on 08-28-2017. Sargento had this event on parking lot surveillance cameras. Sargento psychological intimidation, harassment, gender discrimination, civil conspiracy.

02-1-2018. Anniversary dinner banquet event, two gender discrimination/civil conspiracy/ harassments by management. Human Resources personnel Sonia Otte deliberately didn't have my name called for the acknowledgement of 5 yrs of service, unlike everyone else in my group. The president of the company, Louie Gentine personally apologized to me for Sonia Otte's so called miscommunication at the event. Sargento civil conspiracy/retaliation/gender discrimination due to Katherine Clauson issues.

Human Resources personnel Jeff Kiesner intentionally changed the dinner orders from what I have requested. I told my date, Barbara Finnel this is what Sargento does to someone who says or does something they don't want to hear. This is a prime example of how management retaliates against/treats you when you whistle blow against other workers or stick up for yourself. These acts were deliberate! Sargento disrespectful/harassing behavior, civil conspiracy.

03-16-2018, Friday. After being assaulted on March 12, 2018, I took two days off of work due to stress. On my return; I presented a letter to HR personnel Jeff Kiesner explaining the co-workers were doing and how the lack of discipline on Sargento's management part contributed to issues. I spoke of assault by Ricky Ferron, Emily DenDecker and Owen Carle, along with the comments made by Owen Carle to Ricky Ferron, and separate issue with Victoria Zahn later in the day where she thru hands right in front of my face, because I accidently turned around and walked in front of her.

I attempted to file a grievance complaint with the company. Two Human Resources personnel; Jeff Kiesner / Laura Beihm and one back up in training supervisor, Stacy? They all refused to allow me the opportunity to file a complaint. Later in the morning, Ricky Ferron came back in prep area where I was working and apologized to me how he acted Monday. I told him, 'I expected it from some other people, but not from him'. He got really defensive and said, 'it's my apology'. My impression, he was told to do it, it was heart felt.

03-29-2018. Supervisor Eric Driessen refusing to sign my quarterly safety sheets after sitting on his chair for three or four days. Result would have been a vast reduction in yearly bonus. Sargento gender discrimination/ intimidating/harassing behavior/ Civil Conspiracy/ Retaliation from the Katherine Clauson discrimination behaviors and the 03-12-2018 assault.

04-06-2018. A meeting with HR representatives Maria Herrera and Laura Beihm. They forced a mandatory participation of me in a 'Fitness for Duty Exam' by a forensic psychologist. This was Sargento's retaliations for the most recent hostile environment act by its workers; and a continuation of the civil right / employer liability violations issues, all because Katherine Clauson was still employed at Sargento.

When I was writing statements on the form I was required to sign; Maria Herrera said to me, 'what are you writing a book' as I tried to concentrate to get my statement right. She was distracting me. In the meeting; I brought up two points; one about HR management allowing Katherine Clauson to apply for jobs at the north building, when she shouldn't have the right to apply for any jobs with what she's done. Maria Herrera said that was her decision. Once you're suspended/disciplined for any reason at Sargento; you are not allowed to apply for any other positions for at least six months. The second point I made was how Sargento shipped off Katherine Clauson to other plants to elevate the problem. Maria Herrera replied 'she was sent there for training'. I replied something similar too 'it doesn't matter how you spin it, we know why she was sent there, and the truth never stays buried'. Marie Herrera suddenly became quite. Laura Beihm came back with my copy of the signed document.

Conclusion

These are the facts. Sargento hired Katherine Clauson knowing; she actively tried to seduce a male co-worker, filed a false accusation report in retaliation, and did the sexual/religious discriminating and harassing acts to a man because of his faith and beliefs.

As more discriminatory events escalated, it forced Sargento to schedule her at the other plants in Kiel and Plymouth, Wisconsin. It was a gross miscalculation of their part. The result was an increased harassment/discriminatory and retaliation acts; by co-workers who not only socialized with her but put her up to it, and later on by management. The Hostile environment of discrimination/harassment flourished and continued. Management tried to pressure me to quit thru harassing behaviors and was looking for a reason to fire me. Both parties propelled a large scale conspiracy and discriminatory harassments, thus creating a most severe hostile environment I ever encountered.

The final decision to fire me was made after the assault by Ricky Ferron, Emily DenDecker, and Owen Carle all Katherine Clauson friends. Management decided it was easier with get rid of one person than to deal with half dozen people.

Wisconsin is an 'at will' employment state. A person or an employer can terminate its employment at any time; without repercussions, unless an employer has done something that is against the law. This reasoning begs to wonder why Sargento would go so far out their way to create such a paper trail (requiring a Fitness for Duty exam) when they didn't have to?

Sargento discrimination against me was religion, sexual, gender, and civil conspiracy, I was in the statutorily protected activity due to the fact they had first hand knowledge of the sexual discriminatory acts of my co-worker, due my faith (religion) and the fact I was an older male (gender). In plain terms; Sargento did everything to cover up the

discriminatory behaviors of Katherine Clauson, Co-workers and finally involving themselves in a civil conspiracy to oust me.

This is a fact; if the shoe was on the other foot, and it was a man who did what she did; Sargento would have walked him out the door immediately and suspended him, until the outcome of their investigation.

All the discriminatory and harassing behaviors were reported to Sargento Human Resources Management in good faith. In addition, I made clear that they were unwelcomed. In reaching out too them; I gave Sargento a great deal of latitude to deal with and take corrective actions to the continuing issues, and to make Sargento a safe environment to work in. In return, I was set up to be fired.

I swear that these statements are true to the best of my acknowledge.

Timothy R Gove

Timothy R. Gove